

REMARKS

In the Office action mailed 2/05/04, claims 6, 15, and 24 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Examiner asserted that the term, "approximately" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Applicant requests cancellation of claims 6, 15, and 24.

Claims 1, 2, 5, 6, 10, 12, 15, 16, 19, 20, 23, and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Pecen et al. (US 6,282,182B1). Regarding claim 1, Examiner asserted that Pecen discloses a system that incorporates transmission and reception of GPRS/EDGE data during discontinuous transmission and reception modes, which comprises determining, by the TX unit of the IP telephone,/Means for determining whether silence exists (claims 1, 10, and 19)(Referring to FIGS. 2 and 3, during a discontinuous transmission, the GPRS/EDGE mobile station 202 stops transmitting on its own channel 204, inherently comprising the detection of silence. Examiner cited col. 3, lines 19-23 of Pecen.

Applicant respectfully traverses this ground for rejection of claims 1, 10, and 19. Pecan at col. 3, lines 19-23 state "...during discontinuous transmission (DTX) operation between the mobile station 202 and the base station subsystem 206, in the absence of normal speech or signaling frames, the mobile station 202 stops transmitting on its traffic channel 204..." Applicant respectfully asserts that the Examiner has mischaracterized the meaning of this text. In the absence of normal speech or signaling frames, except for

the periodic transmission of a silence descriptor frame, there is nothing else for the mobile unit to send as described by Pecen. An analogy would be a car running out of fuel and stalling does not mean the engine detected the absence of fuel and decided or determined to cease operation – it simply ceased operation because of the absence of fuel. Thus, the limitation of determining, as taught by the present invention, is not disclosed, taught, or otherwise suggested by Pecen.

Examiner asserted that Pecen, at col. 3, lines 19-28, discloses the limitation of if silence is detected, then sending, by said TX unit,/Means for sending a first silence indication packet while said TX unit continues to send voice packets.

Applicant respectfully traverses this ground for rejection of claims 1, 10, and 19. Pecen, at col. 3, lines 19-28, reads: “...during discontinuous transmission (DTX) operation between the mobile station 202 and the base station subsystem 206, in the absence of normal speech or signaling frames, the mobile station 202 stops transmitting on its traffic channel 204 with the base station subsystem 206, except for the periodic transmission of a silence descriptor (SID) frame 210, which is sent in certain TDMA frames on the uplink. Frame periods 212 which occur between SIDD frames 210 are therefore available for the transmission of GPRS/EDGE data, provided that the channel access method is modified to accommodate for the characteristics of DTX.”

This text of Pecen does not teach, disclose, or otherwise suggest the limitation of if silence is detected, then sending, by said TX unit,/Means for sending a first silence indication packet while said TX unit continues to send voice packets. As described in the analysis of the first limitation above, there is no teaching, disclosure, or suggestion of detecting silence in this cited portion of Pecen. Additionally, there is no teaching,

disclosure or suggestion in this cited portion of Pecen of transmitting a first silence indication packet while the transmitter continues to send voice packets. Pecen discloses sending a silence indication frame in certain TDMA frames. This is not the same as or even similar to transmitting a silence indication packet while sending voice packets.

Examiner asserted that Pecen, at FIG. 8 and col. 7, lines 24-25, discloses the limitation of Waiting, by the TX unit/means for waiting for voice activity to be detected. Applicant respectfully traverses this ground for rejection of claims 1, 10, and 19.

Pecen teaches that when circuit-switched voice data is available, the circuit-switched voice data is transmitted on a traffic channel that has been dedicated to voice operation during setup. Applicant incorporates the analysis of the first limitation's rejection stated above, and offers the following analogy: when fuel is available in a car's fuel tank, it is not through *detection* that it is pumped to the engine, it simply is through the function of the fuel pump that this action occurs. There is no teaching, disclosure, or suggestion that there is any *detection* of voice data required for the present voice data to be transmitted.

Applicant respectfully asserts that claims 5, 6, 14, 15, 23 and 24 are allowable based on being dependent on claims 1, 10, or 19, and thus contain all limitations of these base claims. Thus, the allowability of these claims rests upon the allowability of their respective base claims, which all have been discussed above.

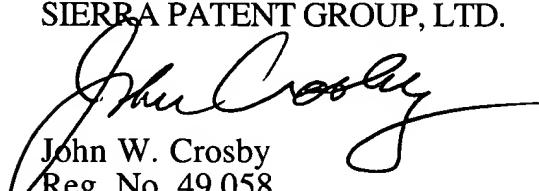
In conclusion, Applicant submits that the claims are currently in condition for allowance, and respectfully requests Examiner to place the present application in condition for allowance. If Examiner feels that there are any matters that may be resolved by

telephone, Examiner is invited to telephone the undersigned attorney at Examiner's earliest convenience.

Respectfully submitted,
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